

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BERNARD WATKINS,

Plaintiff,

v.

DONALD MINOR,

Defendant.

CASE NO. C13-46 MJP

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING MOTION TO DISMISS
AS MOOT

THIS MATTER comes before the Court on the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge (Dkt. No. 4) and Plaintiff's motion for leave to proceed in forma pauperis. (Dkt. No. 1.) The Report and Recommendation recommends dismissal of Plaintiff's case with prejudice, because Plaintiff fails to state a claim upon which relief may be granted. (Dkt. No. 4 at 1.) Plaintiff submitted no objections to the Report and Recommendation, but filed a motion to dismiss without prejudice on April 8, 2013. (Dkt. No. 7.)

The Court considered the Report and Recommendation (Dkt. No. 4), Plaintiff's motion to proceed in forma pauperis (Dkt. No. 1), Plaintiff's proposed complaint (Dkt. No. 1-2), Plaintiff's

1 motion to dismiss without prejudice (Dkt. No. 7), and the remainder of the docket. Because
2 Plaintiff's proposed complaint states a cause of action for which there is no relief available, and
3 because no amendment or alteration to his complaint would cure the defect, the Court ADOPTS
4 the Report and Recommendation and DISMISSES the case with prejudice. The Court finds and
5 ORDERS as follows:

- 6 1. The Report and Recommendation is ADOPTED;
- 7 2. Plaintiff's proposed 42 U.S.C. § 1983 complaint is DISMISSED with prejudice for
8 failure to state a claim upon which relief may be granted, 28 U.S.C. § 1915A(b);
- 9 3. Plaintiff's application to proceed in forma pauperis is DENIED as moot;
- 10 4. Plaintiff's motion to dismiss without prejudice is DENIED as moot; and
- 11 5. The clerk shall send a copy of this Order to the parties and to Judge Tsuchida.

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13 Dated this 15th day of April, 2013.

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15 Marsha J. Pechman
16 United States District Judge
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